

PROGRAMMATIC CATEGORICAL EXCLUSION
For Right-of-Way Actions Approved under 23 CFR 711.117(d)(6)

The Alaska Department of Transportation and Public Facilities (DOT&PF) and the Federal Highway Administration (FHWA) concur in advance that right-of-way approvals for disposal of excess right-of-way or for joint or limited use of right-of-way are approved as Categorical Exclusions (CE) by this agreement provided that the conditions stated 1 through 5 below are met. DOT&PF certifies that the conditions identified in this agreement will be satisfied for all right-of-way approvals processed under this agreement.

The following conditions must be met for right-of-way approvals processed under this Agreement.

1. The action does not have significant environmental impacts as described in 23 CFR 771.117(a).
2. The action does not involve unusual circumstances as described in 23 CFR 771.117(b).
3. The proposed use of right-of-way does not have significant adverse impacts.
4. The proposed use meets the following conditions:
 - a. Does not use properties protected by Section 4(f), 49 U.S.C. 303.
 - b. Has no potential to affect historic resources and therefore does not require further Section 106 consultation per 36 CFR 800.3(a)(1). Note: this precludes the use of this Programmatic CE for any proposal within or adjacent to an eligible historic property, District, or Landmark.
 - c. Does not affect a regulatory floodway or the base floodplain (100-year flood) elevations of a watercourse or lake.
 - d. Does not construct in, across or adjacent to a river designated as a component of the National System of Wild and Scenic Rivers.
 - e. Does not affect wetlands.
 - f. Does not change access control.
 - g. Does not affect a known hazardous material site.
 - h. Does not involve Federally listed threatened or endangered species or their critical habitat.
5. The proposed action or use is exempt from the requirement to determine Air Quality Conformity as defined in 40 CFR Part 93.126 (Found in Table 2: Exempt Projects).

If applicable, DOT&PF Regional Environmental Coordinators will certify on DOT&PF encroachment form #25A-R968 that a proposed action requested under an encroachment permit application falls within the bounds of this agreement. This agreement will remain in effect for 5 years, beginning on the date it is ratified.

April 28, 2008
Date



David C. Miller
Division Administrator
Alaska Division
FHWA

June 9, 2008
Date



Leo von Scheben
Commissioner
DOT&PF